

HOUSE BILL No. 1981

DIGEST OF INTRODUCED BILL

Citations Affected: IC 6-3.1-25; IC 22-2-13.

Synopsis: Health benefit plans; tax credit. Provides a credit against state tax liability for a taxpayer that makes health insurance available to the taxpayer's employees through a cafeteria plan. Provides that the credit equals the lesser of: (1) \$500; or (2) the result of \$200 plus \$10 multiplied by the number of employees exceeding 20. Requires an employer with at least 25 full-time employees to offer at least one health benefit plan. Requires an employer to allow an employee: (1) to choose whether to participate in the plan; and (2) to pay the employee's cost of the plan through payroll deduction. Permits an employer to pay or reimburse all or a part of the employee's cost to participate in the plan on an equal basis.

Effective: July 1, 2003; January 1, 2004.

Orentlicher, Kersey

January 23, 2003, read first time and referred to Committee on Ways and Means.

C
o
p
y



First Regular Session 113th General Assembly (2003)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2002 Regular or Special Session of the General Assembly.

HOUSE BILL No. 1981

A BILL FOR AN ACT to amend the Indiana Code concerning labor and industrial safety.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 6-3.1-25 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE
3 JANUARY 1, 2004]:

4 **Chapter 25. Credit for Offering Cafeteria Plans**

5 **Sec. 1.** As used in this chapter, "cafeteria plan" means a plan
6 offered under Section 125 of the Internal Revenue Code.

7 **Sec. 2.** As used in this chapter, "eligible taxpayer" means a
8 taxpayer that did not provide health insurance to the taxpayer's
9 employees in the taxable year immediately preceding the taxable
10 year for which the taxpayer claims a credit under this chapter.

11 **Sec. 3.** As used in this chapter, "pass through entity" means:

12 (1) a corporation that is exempt from the adjusted gross
13 income tax under IC 6-3-2-2.8(2);

14 (2) a partnership;

15 (3) a limited liability company; or

16 (4) a limited liability partnership.

17 **Sec. 4.** As used in this chapter, "state tax liability" means a



C
o
p
y

taxpayer's total tax liability that is incurred under:

- (1) IC 6-3-1 through IC 6-3-7 (adjusted gross income tax);
- (2) IC 6-5.5 (financial institutions tax); and
- (3) IC 27-1-18-2 (insurance premiums tax);

as computed after the application of the credits that under IC 6-3.1-1-2 are to be applied before the credit provided by this chapter.

Sec. 5. As used in this chapter, "taxpayer" means an individual or entity that has state tax liability.

Sec. 6. (a) An eligible taxpayer that makes health insurance available to the eligible taxpayer's employees through a cafeteria plan is entitled to a credit against the taxpayer's state tax liability for the taxable year in which the cafeteria plan is first made available to the eligible taxpayer's employees.

(b) The credit allowed under this chapter is equal to the lesser of:

- (1) five hundred dollars (\$500); or
- (2) the result of:
 - (A) two hundred dollars (\$200); plus
 - (B) ten dollars (\$10) multiplied by the number of the eligible taxpayer's employees exceeding twenty (20).

Sec. 7. (a) If the amount determined under section 6 of this chapter for a taxpayer in a taxable year exceeds the taxpayer's state tax liability for that taxable year, the taxpayer may carry the excess over to the following taxable years. The amount of the credit carryover from a taxable year shall be reduced to the extent that the carryover is used by the taxpayer to obtain a credit under this chapter for any subsequent taxable year. A taxpayer is not entitled to a carryback.

(b) A taxpayer is not entitled to a refund of any unused credit.

Sec. 8. If a pass through entity does not have state income tax liability against which the tax credit may be applied, a shareholder or partner of the pass through entity is entitled to a tax credit equal to:

- (1) the tax credit determined for the pass through entity for the taxable year; multiplied by
- (2) the percentage of the pass through entity's distributive income to which the shareholder or partner is entitled.

Sec. 9. To receive the credit provided by this chapter, a taxpayer must claim the credit on the taxpayer's state tax return or returns in the manner prescribed by the department. The taxpayer must submit to the department all information that the department

C
o
p
y



determines is necessary for the calculation of the credit provided by this chapter and for the determination of the taxpayer's eligibility for the credit.

Sec. 10. (a) A taxpayer claiming a credit under this chapter shall continue to offer health insurance through a cafeteria plan for at least twenty-four (24) consecutive months.

(b) If the taxpayer terminates the cafeteria plan for which a credit was claimed under this chapter before the expiration of the period required under subsection (a), the taxpayer shall repay the department the amount of the credit.

SECTION 2. IC 22-2-13 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]:

Chapter 13. Health Benefit Plans

Sec. 1. This chapter applies to an employer that employs at least twenty-five (25) full-time employees who are located in Indiana.

Sec. 2. As used in this chapter, "department" means the department of labor created by IC 22-1-1-1.

Sec. 3. As used in this chapter, "full-time employee" means an employee who is normally scheduled to work more than twenty-nine (29) hours each week.

Sec. 4. As used in this chapter, "health benefit plan" means coverage for health care services provided under:

- (1) an accident and sickness insurance policy (as defined in IC 27-8-14.2-1); or
- (2) a contract with a health maintenance organization for coverage of basic health care services under IC 27-13.

Sec. 5. As used in this chapter, "part-time employee" means an employee who is normally scheduled to work less than thirty (30) hours each week.

Sec. 6. After December 31, 2003, an employer shall make available to the employer's full-time and part-time employees and their dependents at least one (1) health benefit plan that meets the following requirements:

- (1) An employee's participation in the health benefit plan is at the employee's election.
- (2) If an employee chooses to participate in the health benefit plan, the employee may pay the employee's share of the cost of the plan using a wage assignment authorized under IC 22-2-6-2.

Sec. 7. (a) An employer may pay or provide reimbursement for all or a part of the cost of a health benefit plan made available

C
o
p
y



1 under section 6 of this chapter.

2 (b) An employer that pays or provides reimbursement under
3 subsection (a) shall pay or provide reimbursement on an equal
4 basis for all full-time employees who elect to participate in the
5 health benefit plan.

6 Sec. 8. An employer shall file evidence of compliance with this
7 chapter annually with the department.

8 Sec. 9. The department shall adopt rules under IC 4-22-2 to
9 implement this chapter.

10 SECTION 3. [EFFECTIVE JULY 1, 2003] (a) The department of
11 labor shall adopt rules to carry out the duties imposed under
12 IC 22-2-13, as added by this act, not later than December 31, 2003.

13 (b) The SECTION expires January 1, 2004.

14 SECTION 4. [EFFECTIVE JANUARY 1, 2004] IC 6-3.1-25, as
15 added by this act, applies only to taxable years that begin after
16 December 31, 2003.

C
o
p
y

